A

File No. 292

1928

Collection No.

Office of the Resident in Mysore

Mas 20/6

Pros. Serial Nos. Sbi 5 1 – 2

Subject.

Question whether incomes received in C & M station & British India can be clubbed together & assessed or whether they should be assessed separately.

Previous References.	Later References.
F 6.3 / 1899	
F 38 / 18	
F 48 / 18	
F 59 / 25	

Letter No.S-104, dated the 16th September, 1929, from the Collector & Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore.

(1) The Income-tax Act, 1922, is in force in the Civil and Military Station, Bangalore, in two different ways, namely:-

(i) as a personal law applying only to British subjects of the classes mentioned in section 1(2) of the Act, and

S.N.61 80- 86.

(ii) as a territorial law applying to all persons from the date on which it was applied to the Station.

(2) As a personal law, the whole of the Act applies. As a territorial law, the Act applies with the exception of sections 7(2) and 64.

S.N.3/a 38C-1918.

(3) While introducing the Act territorially into the Station, section 7(2) appears to have been omitted, mainly because, the provisions contained therein were found unnecessary in view of section 1(2) of the Act as passed by the Indian legislature.

Para 9 of notes with S.N.17/38-18.

(4) The benefit of the deletion of section 7(2) from the Act, will, therefore, be enjoyed only by such of the officers as are assessed under the Act as applied territorially and not by those who would have had to pay tax even if the Act had not been applied to the Station, that is, by officers who are taxed in the Station under the British Indian Act.

(5) Government servants in the Civil and Military Station fall into two categories:-

(i) Officers connected with the administra the Bangalore Assigned Tract, and

S.N.184 613-99.

(ii) Officers not connected with the Ass such as Officers of the Survey of

the Post and Telegraph Department and some of the provincial officers of the Madras Presidency.

Officers referred to in (ii) will exist and would have had to pay tax to Government, even if there were no assigned tract in Mysore. The tax recovered from these officers do not form part of the Assigned Tract revenues. The law applicable to these officers would therefore appear to be the British Indian Act which applies to them in virtue of section 1(2).

The existence of the officers mentioned in class (i) in Bangalore, is due to the existence of the Assigned Tract. Their salaries are debited to the Assigned Tract funds and the income-tax recovered from them is also credited to the same funds. These officers would therefore appear to be governed by the Act as applied to the Station. The Collector, Civil and Military Station, Bangalore, comes under this category of officers and is therefore entitled to the benefit arising from the deletion of section 7(2) of the Act.

The result is that the Collector, C. & M. Station, can be assessed in the Station only on the income which he has received in the Station. The salary received by him outside the Station should be ignored while determining the rate of tax payable by him on the income received in the Civil and Military Station.

The salary paid to him in Madras is, however, liable to be taxed under section 1(2) of the Indian Income-tax Act, and for the purposes of determining the rate of tax payable by him on such income, the salary received by him in the Civil and Military Station should also be taken into consideration - vide section 7(2).

(10) In the case of Mr.Cooke, two separate assessments may therefore be made as follows:-

(i) An assessment on Rs. 7,173/- being the salary received by him in the Civil and Military Station. The income received in Madras should be ignored while fixing the rate of tax. That is, tax should be levied only at six pies in the rupee.

(ii) An assessment on Rs. 11,524/- being the salary received in Madras. In this case, salary paid in the C. & M. Station will be taken into account in determining the rate of tax. (In the present case, however, this makes no difference as the rate of tax will be nine pies in the rupee, whether the Station income is included or not -- the rate applicable to all incomes between Rs.10,000 and Rs. 20,000 being the same, namely, nine pies).

(11) The file may perhaps be sent u.o. to the Assistant Commissioner for information.

24-10-29.

(12) A.C. shd see the papers and then an official reply shd be sent to his letter.

28.10.29

To the Assistant Commissioner, u/o.

U.O. NO. 9246
1.11.29

(13)

1.11.29

1065
13/11/29

Please see from from paragraph 11 on the pre-page.

A draft based on the preceding paragraphs of the notes is submitted for consideration.

K.P. Nayar. 8/1/30
7-12-29.

Pl. speak can we not simplify
question the draft?
GL
30.12.29

As amended.
GL
6.1.30

S.N.2. Issued: No.415, dated the 15th January 1930.

No. S-104/Est. 1919(29)

Office of the
Collector and Assistant Commissioner of Income-tax,
Civil and Military Station, Bangalore,

Dated the 16th September *192* 9.

FROM
G. H. Cooke, Esq., M.C., I.C.S.,
COLLECTOR AND ASST. COMMR. OF INCOME-TAX,
CIVIL AND MILITARY STATION,
Bangalore.

To

The Secretary to the Resident
and Commissioner of Income-tax,
Civil & Military Station, Bangalore.

Subject.—

SIR,

(1) I have the honour to invite a reference to the Government of India Notification No.128-I dated the 21st November 1923 applying the Indian Income-tax Act XI of 1922 to the Civil and Military Station of Bangalore with the exception of Sub-section (2) of Section 7 and Section 64. Sub-section (2) of Section 7 reads as follows:-

> "Any income which would be chargeable under this head (Salary) if paid in British India shall be deemed to be so chargeable if paid to a British subject or any servant of His Majesty in any part of India by Government or by a local authority established by the Governor-General in Council."

It would therefore appear that the Bangalore Cantonment is considered a separate unit for income-tax purposes and that the income which a Government servant receives in British India in the course of an official year cannot be clubbed with that received by him in the Cantonment in the same official year. It would, however, be seen from the Instructions contained in letter No.3753-Est.B., dated the 24th September 1920 from the Secretary to the Government of India in the Foreign and Political Department, Simla, to the Hon'ble the Resident in Mysore (copy enclosed) that all

the Government servants are not to be treated alike and given the benefit of the deletion of Section 7(2) of the Act. In this letter the Government of India have divided the Officers paid by Government in Bangalore into two categories viz., (1) Officers connected with the administration of the Mysore Assigned Tract and (2) Officers not connected with the Assigned Tract. The division of Officers into two categories seems to be based on the revenues from which they are paid. If this is correct, the question of transfer from a place in British India to Bangalore will not affect the cases of such of those persons as are paid from the Central revenues, for example, Officers of the Survey of India, the Post and Telegraph Department and Officers of the Military Department. It will affect the case of only those who are paid from the revenues of Mysore Assigned Tract. In other words, the benefit of the deletion of Section 7(2) will be enjoyed only by those Officers of Government who are paid solely from the revenues of the Mysore Assigned Tract.

(2) I shall feel obliged if you will please let me know whether this interpretation is correct as a doubt has arisen in my own case. I received in British India a salary of Rs.11,524/- during the period April to October 1928 and a salary of Rs.7,173/- in the Cantonment during the period November 1928 to March 1929. The question at issue is whether these two items of income can be clubbed and assessed or two separate assessments should be made, one for the salary received in British India and the other for the amount received in the Cantonment. The point is of some importance as the rate of tax will be 9 pies in the rupee if a consolidated assessment is made on a total income of Rs.18,697/- while it would be 6 pies and 9 pies on Rs.7,173/- and Rs.11,524/- received in Cantonment and British India respectively.

I have the honour to be, Sir,
Your most obedient servant,

18.7.29

ATTACHED

Letter No.3753-Est.B., dated the 24th September 1920, from the Secretary to the Government of India in the Foreign and Political Department, Simla, to the Hon'ble the Resident in Mysore.

S.R. 178(C) I am directed to refer to your letter No.1365, dated the 16th February 1920, regarding the pro-forma accounts of the Bangalore Assigned Tract for the years 1916-17 and 1917-18.

The Mysore Durbar have represented to you that the following items under the head "Income-tax" have been left out on the receipts side of the pro-forma accounts of those years, and that, as the tax accrues and is realised in the jurisdiction of the administration of the Bangalore Assigned Tract, the whole amount of income-tax should be credited to the pro-forma accounts of the Tract.

(a) Tax on salaries, annuities, pensions and gratuities paid by Government on account of Bangalore.

(b) Tax on salaries, annuities, pensions and gratuities paid by Government on account of Mysore Residency.

(c) Interest on Securities.

The Durbar request that, should there be no objection, the accounts for the years 1916-17 and 1917-18 may be amended accordingly.

2. The representations of the Mysore Durbar have received the careful consideration of the Government of India and they have come to the following conclusions:-

Item (a).- "Tax on salaries, annuities, pensions and gratuities paid by Government on account of Bangalore." It appears that the officers paid by Government in Bangalore can be divided into two categories viz: (i) Officers connected with the administration of the Bangalore Assigned Tract and (ii) Officers not connected with the Assigned Tract, such as Officers of the Survey of India and the Post and Telegraph Department and some of the provincial offices of the Madras Presidency. The income-tax levied from the salaries of officers referred to in (ii) is at present credited to Madras

Provincial revenues and since the income-tax on the salaries of these officers would not be credited to the Durbar if the tract were not assigned, the income-tax receipts from the officers cannot appropriately be credited to the pro-forma account. These officers would exist even if there were no Assigned Tract and would pay income-tax to Government.

The income-tax on salaries of the Officers in category (i) is already credited to the pro-forma accounts as part of the revenues of the Assigned Tract.

Item(b).- "Tax on salaries, annuities, pensions and gratuities paid by Government on behalf of the Mysore Residency." Income-tax on salaries etc., paid by Government on account of Mysore Residency is at present credited in the Mysore Resideny Budget to Imperial Revenues on the analogy of the arrangement in force in the case of the salaries of Political Officers and establishments located in other Indian States. In view, however, of the fact that one-third of the salary of Residency officers is debited to the revenues of the Assigned Tract and that these charges would not be necessary if the Tract were not in existence, the Government of India are pleased to direct, that with effect from the financial year 1916-17 one-third of the income-tax receipts under this head shall be credited to the pro-forma accounts of the Bangalore Assigned Tract and the necessary instructions will be issued to the Account Officers concerned to revise the pro-forma accounts accordingly.

Item(c).- "Interest on Securities". Income-tax on interest on securities is credited to the Madras provincial revenues. The securities in question are those of the Government of India or of privtae companies or corporations of British India and income-tax on them is collected at the source. In the case of the securities of private companies or corporations of British India the interest is not necessarily payable in Bangalore although it may in practice be paid there. Foreign

subjects who hold such shares lose income-tax at the source, and this income-tax goes to the Imperial Government owing to the fact that the income accrues in British India; the tax being assessed at the headquarters of the company and not where the holder of the shares lives. In these circumstances, there appear to the Government of India to be no grounds for crediting to the pro-forma account the income-tax realised on interest or dividends received by holders of such securities, who live in the Assigned Tract. An arrangement exists between the Government of India and the Mysore Durbar that interest on government securities may be paid in any of the Mysore State Treasuries; consequently, if the Assigned Tract were a part of Mysore State, the Durbar would have no claim to the income-tax, which is realised by Government on the interest on such securities. The Government of India, therefore, see no reason why the income-tax in such cases should be credited to the pro-forma account of the Assigned Tract.

3. I am to request that, if you see no objection, the Durbar may be informed accordingly.

"Copy"

D.V. Jonjasum 18/9

KMP.
18/9.

18.9 18/9

Income-tax Officer.

V

All communications should be addressed to the Secretary to the Resident in Mysore Bangalore, by designation and not by name.

No. 415 ENC.
292-1929

FROM

Major G. Loch,
SECRETARY TO THE RESIDENT IN MYSORE,
AND COMMISSIONER OF INCOME-TAX.

To

The Collector and Assistant Commissioner of Income-tax
Civil and Military Station, Bangalore.

Dated Bangalore, 15th January, *192* ;

Subject.

INDIAN INCOME-TAX ACT, XI OF 1922- DELETION OF SECTION 7(2)

SIR,

I am directed to refer to your letter No.S-104, dated the 16th September, 1929.

2. It will be observed that the Indian Income-Tax Act, 1922, is in force in the Civil and Military Station of Bangalore in two different forms, namely:-

(i) as a personal law applying only to British Subjects of the classes mentioned in section 1(2) of the Act, and

S. N. 61.

(ii) as a territorial law applying to all persons from the date on which it was applied to the Station.

S.N. 3/A.
38 C-1918

As a personal law, the whole of the Act applies. As a territorial law, the Act applies with the exception of sections 7(2) and 64. The benefit of the omission of section 7 (2) can be enjoyed only by such persons as are assessed under the Act as aplied to the Civil and Military Station.

3. Government servants in the Civil and Military Station of Bangalore fall into two classes:-

(i) Officers connected with the administration of the Bangalore Assigned Tract, and

(ii) Officers not connected with the Assigned Tract such as Officers of the Survey of India and the Posts and Telegraph Department.

Officers

Officers falling in class (ii) would have existed and would have had to pay the tax to Government, even if there were no Assigned Tract in Mysore. The tax recovered from these officers does not form part of the Assigned Tract revenues. The income-tax law applicable to these officers would, therefore, appear to be the British Indian Act, which applies to them by virtue of section 1(2) of the Act.

The posts occupied by the officers mentioned in class (i) owe their existence to the Assigned Tract and the salaries of these officers are debited to the revenues of the Assigned Tract. The income-tax recovered from them is also credited to the same revenues. These officers are governed by the Act as applied to the Station. The Collector, Civil and Military Station, Bangalore, for instance, comes under this class of officers and is entitled to the benefit of the omission of section 7(2) of the British Indian Act from the Act as applied here territorially. He can, therefore, be assessed in the Station only with reference to the income received by him there. The salary received by him outside the Station should be ignored for the purpose of determining the rate of tax payable by him on the income received in the Station. The salary paid to him in Madras is, however, liable to be taxed under section 1(2) of the Indian Income-tax Act, and for the purposes of determining the rate of tax payable by him on his Madras income, the salary received in the Civil and Military Station will also be taken into account- vide section 7 (2) of the Act.

4. With reference to the second paragraph of your letter under reply, regarding tax payable by you in 1929-30, it seems that two separate assessments should be made:-

(i) An assessment on Rs.7,173/-, the salary received in the Civil and Military Station. The income you received in Madras should not be taken into account for the purpose of fixing the rate, which will accordingly be six pies in the rupee.

(ii) An assessment on Rs. 11.524/- the salary received

in

in Madras. In this case, salary paid to you in the Civil and Military Station will be taken into account for the purpose of fixing the rate of tax.

I have the honour to be,
Sir,
Your most obedient servant,

Major,
SECRETARY TO THE RESIDENT AND
COMMISSIONER OF INCOME-TAX.

VKB